

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

THE UNITED STATES for the use of )  
GMW Fire Protection, Inc., an Alaska )  
Corporation, )

Plaintiff, )

vs. )

KANAG'IQ CONSTRUCTION CO., )  
INC., an Alaska Corporation and )  
WESTERN SURETY COMPANY, a )  
South Dakota Corporation, )

Defendants. )

Case No. A05-170 Civil (TMB)

AFFIDAVIT OF COUNSEL

STATE OF ALASKA )  
) ss.  
THIRD JUDICIAL DISTRICT )

Thomas S. Gingras, being first duly sworn, deposes and states:

1. I am the attorney for Defendants, KANAG'IQ CONSTRUCTION CO.,  
INC. and WESTERN SURETY COMPANY, in the above action.

2. Shortened time is needed for consideration of the Motion for  
Reconsideration, Motion to Change Trial Date or, In the Alternative, Motion for Trial  
Setting Conference because of the proximity of the current trial date the week of  
December 11, 2007, and my unavailability for trial in this matter at that time.

Affidavit of Counsel

*The United States for the use of GMW Fire Protection v. Kanag'iq Construction Co., Inc., et al.*  
Case No. A05-170 Civil (TMB)

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Eide & Gingras, P.C.  
425 G Street, Suite 930  
Anchorage, Alaska 99501  
(907) 279-0930 telephone  
(907) 279-0933 fax

1           3.     I am unavailable for trial in this matter the week of December 11, 2007,  
2     because I will be in trial in a separate matter in state court.

3           4.     The matter in state court is scheduled for trial for four weeks, starting  
4     November 26, 2007. As a result, I will be in trial in state court from November 26, 2007  
5     through December 21, 2007, with the possibility that the trial may extend beyond the  
6     scheduled time.

7           5.     The matter in state court involves a complex case that has been ongoing for  
8     almost six years. The case has virtually no possibility of settling before trial.

9           6.     I am one of the lead counsel in the state court action referenced above and I  
10    am one of the attorneys most familiar with the case. Having worked on the case over the  
11    course of several years, I am indispensable to the prosecution of the case at trial.  
12

13           7.     The parties in the state court action collectively have seventeen experts  
14    who are scheduled to testify at trial, as well as over two hundred witnesses excluding  
15    experts. Travel arrangements have already been made for experts coming from outside  
16    Alaska.  
17

18           8.     I originally communicated with Plaintiff's counsel about proposed trial  
19    dates in this matter, after which a Notice of Mutually Proposed Trial Dates was filed with  
20    the Court on September 5, 2007. The notice stated that the only week in the Court's  
21    proposed time frame during which defense counsel is available for trial in this matter was  
22    the week of November 5, 2007. This Court set trial for December 11, 2007.  
23  
24  
25

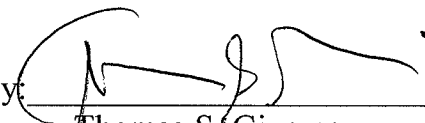
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1 9. I subsequently communicated with Plaintiff's counsel concerning the  
2 Motion for Shortened Time and the underlying motion. Plaintiff's counsel does not  
3 oppose the Motion for Shortened Time, and she reserves the right to object to any of the  
4 proposed trial dates in the main motion.

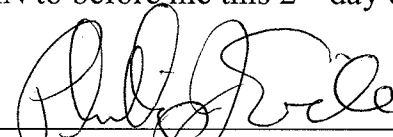
5 10. I have proposed five trial dates as alternatives to December 11, 2007, based  
6 on my trial calendar in other matters pending in state court.  
7

8 FURTHER YOUR AFFIANT SAYETH NAUGHT.

9 DATED at Anchorage, Alaska this 2<sup>nd</sup> day of October 2007.  
10

11 By:   
12 Thomas S. Gingras  
13 Alaska Bar No. 7811098  
14

15 SUBSCRIBED AND SWORN to before me this 2<sup>nd</sup> day of October 2007.  
16

17   
18 Notary Public in and for the State of Alaska  
19 My Commission Expires: 3/13/210  
20

21 Eide & Gingras, P.C.  
22 425 G Street, Suite 930  
23 Anchorage, Alaska 99501  
24 (907) 279-0930 telephone  
25 (907) 279-0933 fax

**CERTIFICATE OF SERVICE**

I am a legal secretary employed by the law  
firm of Eide & Gingras, P.C. That on this  
2<sup>nd</sup> day of October 2007, I served

☒ Electronically

a true and accurate copy of the foregoing  
document upon the following counsel of record:

Sarah J. Tugman, Esq.  
2509 Eide Street, Suite 4  
Anchorage, AK 99503

EIDE & GINGRAS, P.C.

By /s/Donna Charter

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